

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTIETH DAY

(Monday, May 4, 2009)

The Senate met at 11:10 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Steven Bell, Saint Austin Catholic Parish, Austin, offered the invocation as follows:

Most good and gracious God, we give You thanks for this new day of life and living, this new day of hope and opportunity. We have gathered together to deliberate, debate, and decide. May You shine Your gifts of wisdom, prudence, and patience to guide us this day so that the fruits of our convocation may feed and foster all those who we serve in great and beneficial ways. Fortify us with good health and strength so that we may be physically up to the challenges of the day. Fill us with inspiration and understanding to enlighten our minds. And enrich our joy and peace to nourish our hearts. We ask all of these graces and blessings in the courage of our faith. And to this we say, Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Friday, May 1, 2009, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHOR OF SENATE BILL 41

On motion of Senator Zaffirini, Senator Deuell will be shown as Co-author of **SB 41**.

CO-AUTHOR OF SENATE BILL 505

On motion of Senator Ogden, Senator Hinojosa will be shown as Co-author of **SB 505**.

CO-AUTHOR OF SENATE BILL 689

On motion of Senator Shapiro, Senator Uresti will be shown as Co-author of **SB 689**.

CO-AUTHOR OF SENATE BILL 815

On motion of Senator Watson, Senator Davis will be shown as Co-author of **SB 815**.

CO-AUTHORS OF SENATE BILL 841

On motion of Senator Averitt, Senators Gallegos and Shapleigh will be shown as Co-authors of **SB 841**.

CO-AUTHOR OF SENATE BILL 982

On motion of Senator Van de Putte, Senator Hinojosa will be shown as Co-author of **SB 982**.

CO-AUTHORS OF SENATE BILL 1257

On motion of Senator Averitt, Senators Shapleigh and Watson will be shown as Co-authors of **SB 1257**.

CO-AUTHOR OF SENATE BILL 1611

On motion of Senator Davis, Senator Ellis will be shown as Co-author of **SB 1611**.

CO-AUTHOR OF SENATE BILL 1817

On motion of Senator Van de Putte, Senator Uresti will be shown as Co-author of **SB 1817**.

CO-AUTHORS OF SENATE BILL 2080

On motion of Senator Uresti, Senators Nelson and Patrick will be shown as Co-authors of **SB 2080**.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were referred to the Committee on Nominations:

Austin, Texas

May 1, 2009

TO THE SENATE OF THE EIGHTY-FIRST LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be members of the Texas Diabetes Council for terms to expire February 1, 2015:

Gene Fulton Bell

Lubbock, Texas

(Ms. Bell is being reappointed)

Victor Hugo Gonzalez

McAllen, Texas

(Dr. Gonzalez is being reappointed)

Arthur E. Hernandez

Rockport, Texas

(replacing Avery Rhodes of Diboll whose term expired)

Dora Rivas

Dallas, Texas

(Ms. Rivas is being reappointed)

To be members of the Texas State Board of Public Accountancy for terms to expire January 31, 2015:

Everett "Ray" Ferguson

Abilene, Texas

(replacing Orville Mills of Sugar Land whose term expired)

James C. Flagg

College Station, Texas

(Mr. Flagg is being reappointed)

Jon Reed Keeney

Taylor Lake Village, Texas

(replacing John Walton of Dallas whose term expired)

Maribess Lehman Miller

Dallas, Texas

(replacing David Duree of Odessa whose term expired)

Thomas Green Prothro

Tyler, Texas

(replacing Joe Richardson of Houston whose term expired)

To be members of the Automobile Burglary and Theft Prevention Authority for terms to expire February 1, 2015:

Mark H. Wilson

Brandon, Texas

(replacing Jason Hartgraves of Frisco whose term expired)

Margaret "Jerry" Wright

El Paso, Texas

(Ms. Wright is being reappointed)

To be a member of the Texas School Safety Center Board for a term to expire February 1, 2011:

Amy L. C. Clapper

Georgetown, Texas

(Ms. Clapper is replacing Lucy Rubio of Corpus Christi whose term expired)

To be members of the Commission on Human Rights for terms to expire February 1, 2015:

Michelle H. Diggs

Cedar Park, Texas

(replacing Jose de Santiago of Houston whose term expired)

Veronica Vargas Stidvent
Austin, Texas

(Ms. Stidvent is being reappointed)

To be members of the Texas State Board of Examiners of Professional Counselors for terms to expire as indicated:

To Expire February 1, 2011:
Glynda Beth Corley
Round Rock, Texas

(Ms. Corley is being reappointed)

Michelle Alcon Eggleston
Amarillo, Texas

(replacing Ana Bergh of Edinburg whose term expired)

Jaa Akili St. Julien
Houston, Texas

(replacing Judy Powell of The Woodlands whose term expired)

To Expire February 1, 2013:
Steven Douglas Christopherson
Pasadena, Texas

(replacing Dan F. Wilkins of Center whose term expired)

Leslie Fisher Pohl
Austin, Texas

(replacing J. Helen Perkins of DeSoto whose term expired)

Maria Francisa Teran
El Paso, Texas

(replacing Michelle Eggleston of Amarillo whose term expired)

To Expire February 1, 2015:
Brenda "Brandi" Buckner
Weatherford, Texas

(replacing Diane Boddy of Dallas whose term expired)

Karen R. Burke
Austin, Texas

(replacing Alma Leal of Rancho Viejo whose term expired)

Brenda S. Compagnone
Carrizo Springs, Texas

(replacing James Castro of San Antonio whose term expired)

To be members of the Governing Board of the Texas School for the Deaf for terms to expire as indicated:

To Expire January 31, 2013:
Beatrice Maestas Burke
Temple, Texas

(Ms. Burke is being reappointed)

Nancy Mumme Carrizales
Katy, Texas

(Ms. Carrizales is being reappointed)

Susan K. Ridley
Sugar Land, Texas

(replacing Dale Kesterson of Big Spring whose term expired)

To Expire January 31, 2015:

Walter Camenisch III

Austin, Texas

(Mr. Camenisch is being reappointed)

Eric Hogue
Wylie, Texas

(replacing Charles Estes of Denton whose term expired)

To be members of the Texas Council on Purchasing from People with Disabilities for terms to expire January 31, 2015:

Victor Kilman
Lubbock, Texas

John W. Luna
Eules, Texas

Wanda White Stovall
Fort Worth, Texas

(the individuals listed above are being reappointed)

To be members of the Texas Board of Architectural Examiners for terms to expire January 31, 2015:

Corbett "Chase" Bearden
Austin, Texas

(replacing Kyle Garner of Amarillo whose term expired)

H. L. Bert Mijares, Jr.
El Paso, Texas

(replacing Peter Pfeiffer of Austin whose term expired)

Alfred Vidaurri, Jr.
Aledo, Texas

(Mr. Vidaurri is being reappointed)

To be members of the Texas Board of Professional Land Surveying for terms to expire January 31, 2015:

James Allen Childress
San Saba, Texas

(replacing Ty Runyon of Austin whose term expired)

Nedra J. Foster
Silsbee, Texas

(Ms. Foster is being reappointed)

Robert H. Price, P.E.

Eules, Texas

(replacing Kelley Sue Neumann of San Antonio whose term expired)

To be members of the Texas Emancipation Juneteenth Cultural and Historical Commission for terms to expire as indicated:

To Expire February 1, 2011:

Carmen Francis

Georgetown, Texas

(replacing Stella Roland of Austin whose term expired)

To Expire February 1, 2015:

Willie Belle Boone

Houston, Texas

(replacing Byron Miller of San Antonio whose term expired)

To be members of the Texas Board of Nursing for terms to expire January 31, 2015:

Tamara Jean Parrish Cowen

Harlingen, Texas

(replacing George Buchenau of Amarillo whose term expired)

Sheri Denise Crosby

Mesquite, Texas

(Ms. Crosby is being reappointed)

Kathy Lynette Leader-Horn

Granbury, Texas

(replacing Rachel Gomez of Harlingen whose term expired)

Josefina Lujan

El Paso, Texas

(replacing Brenda Jackson of San Antonio whose term expired)

Mary Jane Salgado

Eagle Pass, Texas

(Ms. Salgado is being reappointed)

To be members of the Upper Guadalupe River Authority for terms to expire February 1, 2015:

Lester C. Ferguson

Kerrville, Texas

(replacing Jaime Quintanilla of Kerrville whose term expired)

Stanley R. Kubenka

Kerrville, Texas

(Mr. Kubenka is being reappointed)

Lucy Ortiz Wilke

Kerrville, Texas

(replacing Walter Schellhase of Kerrville whose term expired)

To be a member of the Angelina and Neches River Authority Board of Directors for a term to expire September 5, 2011:

Patricia E. Dickey
Crockett, Texas

(Ms. Dickey is replacing Greg James of Nacogdoches who resigned)

To be members of the Texas Appraiser Licensing and Certification Board for terms to expire January 31, 2011:

Walker Rankin Beard
El Paso, Texas

(replacing Larry Kokel of Walburg whose term expired)

Danny R. Perkins
Houston, Texas

(Dr. Perkins is being reappointed)

James B. Ratliff
Garland, Texas

(Mr. Ratliff is being reappointed)

Donna Lee Walz
Lubbock, Texas

(Ms. Walz is being reappointed)

To be members of the Texas Board of Orthotics and Prosthetics for terms to expire February 1, 2015:

Leah F. Esparza
Austin, Texas

(replacing Kenneth Mueller of Brenham whose term expired)

Roy D. McCoy
Round Rock, Texas

(Mr. McCoy is being reappointed)

Miguel N. Mojica
Coppell, Texas

(Mr. Mojica is being reappointed)

To be members of the Lavaca-Navidad River Authority Board of Directors for terms to expire May 1, 2015:

John Alcus Cotton, Jr.
Ganado, Texas

(Mr. Cotton is being reappointed)

Ronald Edwin Kubecka
Palacios, Texas

(Mr. Kubecka is being reappointed)

Nils P. Mauritz
Ganado, Texas

(replacing Jackie Ann Fowler of Ganado whose term expired)

To be members of the Texas Board of Physical Therapy Examiners for terms to expire January 31, 2015:

Kevin Lindsey
Mission, Texas

(replacing Joseph Spano of Wharton whose term expired)

Rene Pena
El Paso, Texas

(replacing Manoranjan Mahadeva of Austin whose term expired)

Melinda A. Rodriguez
San Antonio, Texas

(Dr. Rodriguez is being reappointed)

To be members of the Council on Sex Offender Treatment for terms to expire February 1, 2015:

Frederick Liles Arnold
Plano, Texas

(Mr. Arnold is being reappointed)

Joseph Richard "J.D." Gutheinz, Jr.
Houston, Texas

(replacing Glen Kercher of Huntsville whose term expired)

Holly A. Miller
The Woodlands, Texas

(replacing Maria Molett of Garland whose term expired)

To be members of the Private Sector Prison Industries Oversight Authority for terms to expire February 1, 2015:

Elaine Anne Boatright
Smithville, Texas

(replacing Lillian Barajas of El Paso whose term expired)

Burnis Brazil
Richmond, Texas

(Mr. Brazil is being reappointed)

S. Roxanne Carter
Canyon, Texas

(Ms. Carter is being reappointed)

To be members of the Texas Commission on Fire Protection for terms to expire as indicated:

To Expire February 1, 2011:

John W. Green
San Leon, Texas

(replacing John Riddle of Willis who resigned)

To Expire February 1, 2015:

Les Bunte
Bryan, Texas

(Mr. Bunte is being reappointed)

Yusuf Elias Farran

El Paso, Texas

(Mr. Farran is being reappointed)

Carl Gene Giles

Carthage, Texas

(replacing Kelley Stalder of Parker whose term expired)

Kimberly Shambley

Dallas, Texas

(replacing Jane Burch of Grand Prarie whose term expired)

Steven C. Tull

Valley Mills, Texas

(replacing Kent Worley of Fort Worth whose term expired)

To be a member of the Texas Woman's University Board of Regents for a term to expire February 1, 2011:

Patty Hayes Huffines

Austin, Texas

(Ms. Huffines is replacing Lou Halsell Rodenberger of Baird who is deceased)

Respectfully submitted,

/s/Rick Perry

Governor

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **HB 670**.

PHYSICIAN OF THE DAY

Senator Huffman, on behalf of Senator Jackson, was recognized and presented Dr. P. J. Mock of La Porte as the Physician of the Day.

The Senate welcomed Dr. Mock and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

CONCLUSION OF MORNING CALL

The President at 11:19 a.m. announced the conclusion of morning call.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 4, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 78, Relating to the amount of a county expenditure for which competitive bidding is required.

HB 90, Relating to the sale of toy-like lighters in this state; imposing a penalty.

HB 93, Relating to the restoration of good conduct time forfeited during a term of imprisonment.

HB 94, Relating to the application of laws awarding credit to an inmate for time between release on and subsequent revocation of parole, mandatory supervision, or conditional pardon.

HB 140, Relating to the use or display under certain circumstances of an expired license to carry a concealed handgun.

HB 167, Relating to an oral statement regarding the impact of an offense in certain cases involving a violent crime.

HB 171, Relating to consideration of mitigating factors in determining appropriate disciplinary action to be taken against a public school student.

HB 216, Relating to the regulation of boarding home facilities for persons with disabilities or elderly persons and assisted living facilities.

HB 243, Relating to equipping certain K-9 law enforcement vehicles with heat alarm systems.

HB 284, Relating to reporting of international shipments of electronic waste.

HB 410, Relating to the requirement under certain circumstances that a license holder display the person's license to carry a concealed handgun.

HB 422, Relating to information provided to a person applying for a state tax permit or license.

HB 428, Relating to standing for certain individuals to file a suit affecting the parent-child relationship.

HB 453, Relating to the use of auction proceeds from the sale of certain abandoned motor vehicles to compensate certain property owners.

- HB 548**, Relating to the impoundment of certain motor vehicles involved in the commission of the offense of racing on a highway.
- HB 576**, Relating to the electronic distribution of information to legislators by state agencies.
- HB 617**, Relating to the possession of certain quantities of alcoholic beverages in a dry area.
- HB 623**, Relating to the regulation of massage establishments in certain counties.
- HB 646**, Relating to the participation of this state in the Southern High-Speed Rail Compact.
- HB 775**, Relating to the penalty for theft of a central air-conditioning unit.
- HB 796**, Relating to the disposition of property alleged to have been illegally acquired and to the use of the photographic evidence of that property in a criminal action.
- HB 802**, Relating to the creation of the lifespan respite services program.
- HB 829**, Relating to appeals to the commissioner of education.
- HB 1003**, Relating to notice provided to certain victims or witnesses regarding certain inmates or defendants who are electronically monitored.
- HB 1058**, Relating to the receipt of death benefits in the workers' compensation system.
- HB 1118**, Relating to the appointment of an administrative judge for drug court programs in this state.
- HB 1360**, Relating to the effect under the public information law of the disclosure of certain information by a prosecutor to defense counsel.
- HB 1433**, Relating to the amount of the annual water quality fee imposed on holders of wastewater discharge permits and on users of water.
- HB 1467**, Relating to the purchase or lease by state agencies of vehicles using alternative fuels.
- HB 1471**, Relating to foreclosure sales of residential real property.
- HB 1474**, Relating to the operation and regulation of charitable bingo and the use of bingo proceeds.
- HB 1487**, Relating to the alignment of certain Medicaid procedures regarding written orders for diabetic equipment and supplies with comparable Medicare written order procedures.
- HB 1498**, Relating to the information required to be displayed on a license to carry a concealed handgun and the duty of a license holder to keep that information current.
- HB 1614**, Relating to the punishment for the offense of criminal mischief.
- HB 1634**, Relating to the release of a motor vehicle accident report or certain information in a motor vehicle accident report; providing penalties.
- HB 1771**, Relating to the reduction in value or abandonment of stored value cards.

- HB 1912**, Relating to the Transitional Living Services Program and the Preparation for Adult Living Program for foster children transitioning to independent living.
- HB 1914**, Relating to abolishing the Private Sector Prison Industries Oversight Authority and to the certification and operation of private sector prison industries programs.
- HB 1995**, Relating to the liability of volunteer audiologists and speech-language pathologists who provide certain speech, language, and hearing evaluations.
- HB 2063**, Relating to the enforcement of rules by a groundwater conservation district.
- HB 2083**, Relating to determination of state contributions for participation by certain junior college employees in the state employees group benefits program.
- HB 2115**, Relating to the punishment prescribed for the offense of bail jumping and failure to appear.
- HB 2127**, Relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.
- HB 2149**, Relating to the liability of public servants of certain governmental units for property damage.
- HB 2161**, Relating to the issuance of a personal identification certificate to present or former inmates of the Texas Department of Criminal Justice.
- HB 2276**, Relating to the use of state hotel occupancy tax revenue to clean and maintain beaches in certain municipalities.
- HB 2321**, Relating to lifetime licenses for hunting and fishing.
- HB 2664**, Relating to creating a defense to prosecution for the offense of unlawful carrying of a handgun by a license holder on the premises of certain businesses.
- HB 2876**, Relating to the authority of an administrative law judge to order the release of certain information relating to a child abuse and neglect investigation.
- HB 3450**, Relating to a temporary faculty license for chiropractic faculty.
- HB 4397**, Relating to payoff statements provided in connection with certain home loans.
- HB 4593**, Relating to the marketing of shrimp and aquaculture products.
- HB 4611**, Relating to the treatment of proceeds from sales of certain loans and securities for purposes of apportionment under the franchise tax.
- HCR 194**, Commemorating the Rotary District 5830 Conference in Paris, Texas, on May 15 and 16, 2009.
- HCR 195**, In memory of Robert Dale House of Johntown.
- HCR 196**, In memory of Judy Broach Hammonds of Mount Pleasant.
- HCR 197**, In memory of Paul Alford Middleton of Annona.
- HCR 198**, In memory of Hubert H. Wiley of Clarksville.
- HCR 199**, In memory of George I. Richardson of Paris, Texas.

HCR 200, Honoring the life of Gratie Mae Potts of Clarksville.

HCR 201, In memory of Doris L. Joplin of Powderly.

HCR 202, In memory of Dorthy Matthews of Mount Pleasant.

HCR 203, In memory of Lessie Nelson of Mount Vernon.

HCR 204, Congratulating the Tyler Morning Telegraph on its 100th anniversary.

HCR 205, Congratulating Dr. Larry N. Balli on the 24th anniversary of his Edinburg dental practice.

HJR 116, Proposing a constitutional amendment authorizing the Veterans' Land Board to issue general obligation bonds in amounts equal to or less than amounts previously authorized.

SB 187, Relating to a Medicaid buy-in program for certain children with disabilities.

SCR 55, In memory of Harvey Carroll "Dulie" Bell, Jr.

SCR 61, Commending Leo Aguirre of Austin for his performance with the New Mexico State University baseball team.

SCR 66, Commending Tommy Nobis for his achievements in his football career.

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 806 (140 Yeas, 0 Nays, 1 Present, not voting)

HB 2433 (136 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL 512 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **SB 512** at this time on its second reading:

SB 512, Relating to authorizing the Department of Public Safety of the State of Texas to establish a driver record monitoring pilot program and enter into contracts for the periodic reporting of certain information in the department's driver's license files; providing penalties.

The motion prevailed.

Senator Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Nelson.

SENATE BILL 512 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 512** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1388 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1388** at this time on its second reading:

CSSB 1388, Relating to process server certification and the establishment of a certification division within the Office of Court Administration of the Texas Judicial System.

The motion prevailed.

Senator Ogden asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden.

**COMMITTEE SUBSTITUTE
SENATE BILL 1388 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1388** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

SENATE BILL 1343 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1343** at this time on its second reading:

SB 1343, Relating to the formula funding for public institutions of higher education for certain credit hours that do not count toward a degree.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 1343 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1343** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 2228 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2228** at this time on its second reading:

SB 2228, Relating to the transfer of certain state property from the Texas Department of Criminal Justice to Coryell County.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 2228 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2228** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 2317 ON SECOND READING**

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2317** at this time on its second reading:

CSSB 2317, Relating to the composition, duties, recommendations, and expenses of certain entities created to study and provide advice regarding environmental flows.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 2317 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2317** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 689 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 689** at this time on its second reading:

CSSB 689, Relating to restrictions on the use of the Internet by sex offenders and to the reporting, collection, and exchange of information regarding those offenders; providing a civil penalty.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 689 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 689** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 815

Senator West offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join Texans across the state in celebrating May 4 through 10, 2009, as Texas Early College High School Awareness Week; and

WHEREAS, Early college high schools are designed so that young people who are traditionally underrepresented in higher education, such as low-income young people, students of color, and first-generation college attendees, can simultaneously earn a high school diploma and an associate degree without facing the burden of paying tuition; and

WHEREAS, Since 2002 the organizations responsible for the Early College High School Initiative have created or redesigned more than 200 schools across the nation that have had a positive effect on the lives of more than 42,000 young people; and

WHEREAS, More than 90 percent of the participants in this exemplary program earn high school diplomas, and 88 percent earn college credit; at a time when a year's tuition at a public college averages \$6,600, this program enables and encourages students to pursue the higher education needed in today's changing world; and

WHEREAS, Texas currently has 29 early college high schools serving nearly 7,000 students; with the support of such organizations as the Texas Education Agency and the Bill and Melinda Gates Foundation, this outstanding program is making a difference in education in our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the sponsors of the Early College High School Initiative on their dedication to expanding the number of students able to graduate from high school and earn a college degree and extend to them best wishes for a successful Texas Early College High School Awareness Week; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of this special week.

WEST	HEGAR
ELLIS	SHAPIRO
GALLEGOS	URESTI

(Senator Eltife in Chair)

SR 815 was read and was adopted without objection.

GUESTS PRESENTED

Senator West, joined by Senator Shapiro, was recognized and introduced to the Senate Juan Pineda, student, Mountain View Early College High School; Torrie Birdwell and Abimael Valdez, students, Cedar Valley College; Jeannie Adams, teacher, Mountain View Early College High School; and Gayle Ferguson Smith, Principal, Cedar Valley College.

The Senate welcomed its guests.

MOTION TO PLACE SENATE BILL 315 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **SB 315** at this time on its second reading:

SB 315, Relating to the reapportionment of congressional districts and the creation, function, and duties of the Texas Congressional Redistricting Commission.

Senator Wentworth withdrew the motion to suspend the regular order of business.

SENATE BILL 2256 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2256** at this time on its second reading:

SB 2256, Relating to the establishment and operation of the Texas Women Veterans Program.

The bill was read second time.

Senator Zaffirini offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 2256** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **SB 2256** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 2256 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 2256 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2256** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1120 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 1120** at this time on its second reading:

CSSB 1120, Relating to reports on racial profiling in connection with motor vehicle stops; providing a penalty.

The motion prevailed by the following vote: Yeas 22, Nays 9.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Estes, Gallegos, Hegar, Hinojosa, Lucio, Nichols, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Eltife, Fraser, Harris, Huffman, Jackson, Nelson, Ogden, Patrick, Shapiro.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1120** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Article 2.132(b)(7), Code of Criminal Procedure (page 1, lines 55-57), strike "to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6)" and substitute:

"~~[to the governing body of each county or municipality served by the agency]~~ an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency,"

(2) In SECTION 11 of the bill, in added Section 1701.162, Occupations Code (page 7, line 6), strike "University of North Texas" and substitute "W. W. Caruth, Jr., Police Institute at Dallas".

The amendment to **CSSB 1120** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1120 as amended was passed to engrossment by the following vote: Yeas 21, Nays 10.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Estes, Gallegos, Hinojosa, Lucio, Nichols, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Eltife, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Ogden, Patrick, Shapiro.

HOUSE BILL 2058 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2058** at this time on its second reading:

HB 2058, Relating to the standards for attorneys representing indigent defendants in capital cases.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2058 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2058** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 108 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 108** at this time on its second reading:

CSSB 108, Relating to the establishment and funding of a green job skills training program.

The motion prevailed.

Senators Ogden, Patrick, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 108** (Senate committee printing) by striking SECTION 3 of the bill and adding a new SECTION 3 to read as follows:

SECTION 3. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

The amendment to **CSSB 108** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Ogden, Patrick, Williams.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 108 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden, Patrick, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 108 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 108** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden, Patrick, Williams.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 474 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 474** at this time on its second reading:

CSSB 474, Relating to the comptroller of public accounts' use of electronic paycards to make certain payments.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 474 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 474** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 1748 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **CSSB 1748** at this time on its second reading:

CSSB 1748, Relating to the issuance of a certificate for a municipal setting designation.

Senator Jackson withdrew the motion to suspend the regular order of business.

**COMMITTEE SUBSTITUTE
SENATE BILL 112 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 112** at this time on its second reading:

CSSB 112, Relating to the establishment of veterans court programs in this state.

The motion prevailed.

Senators Nichols, Ogden, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 112** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 617.001(b), Health and Safety Code (page 1, lines 42-43), between "a veterans court program" and "after notice", insert ", as authorized under Section 76.011, Government Code,".

(2) In SECTION 1 of the bill, in added Section 617.001(b), Health and Safety Code (page 1, lines 47-51), strike "and enter an order of expunction under Chapter 55, Code of Criminal Procedure, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt".

(3) In SECTION 1 of the bill, in added Section 617.002(a), Health and Safety Code (page 1, lines 54-55), strike ", charged with, or convicted of" and substitute "or charged with".

(4) In SECTION 1 of the bill, in added Section 617.002(a)(2), Health and Safety Code (page 1, line 63), strike "or mental illness" and substitute ", mental illness, or mental disorder, including post-traumatic stress disorder,".

(5) In SECTION 1 of the bill, strike added Section 617.007, Health and Safety Code (page 3, lines 2-13).

(6) Strike SECTION 2 of the bill (page 3, lines 14-29), and substitute the following:

SECTION 2. Subsection (a), Article 55.01, Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; or

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, or because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest.

The amendment to **CSSB 112** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Nichols, Ogden, Williams.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 112 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Nichols, Ogden, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 112 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 112** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Nichols, Ogden, Williams.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 1443 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1443** at this time on its second reading:

CSSB 1443, Relating to the academic costs charged to resident undergraduate students by general academic teaching institutions, to student financial assistance funded by tuition set-asides, and to certain reports regarding certain costs of those institutions.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1443** (committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

The amendment to **CSSB 1443** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1443 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1443 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1443** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 18 ON SECOND READING**

The Presiding Officer, Senator Eltife in Chair, laid before the Senate **CSSB 18** by Senator Estes on its second reading. The bill had been read second time, amended, and further consideration postponed:

CSSB 18, Relating to the use of eminent domain authority.

Question — Shall **CSSB 18** as amended be passed to engrossment?

VOTE RECONSIDERED

On motion of Senator Estes and by unanimous consent, the vote by which Floor Amendment No. 2 to **CSSB 18** was adopted was reconsidered.

Question — Shall Floor Amendment No. 2 to **CSSB 18** be adopted?

Senator Ogden withdrew Floor Amendment No. 2.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 18** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 21.0111(c), Property Code (page 4, lines 15-26).

(2) In SECTION 2 of the bill, in added Section 21.0111(d)(2), Property Code (page 4, line 34), between "confidential" and the period, insert "unless the offer or agreement is subject to Chapter 552, Government Code".

(3) In SECTION 2 of the bill, in amended Section 21.0111, Property Code (page 4, lines 27 and 35) reletter subsections appropriately.

(4) In SECTION 3 of the bill, strike added Section 21.0113(b), Property Code (page 4, lines 46-66), and substitute the following:

(b) An entity with eminent domain authority has made a bona fide offer if:

(1) an initial offer is made in writing to a property owner;

(2) a final offer is made in writing to the property owner;

(3) the final offer is made on or after the 30th day after the date on which the entity makes a written initial offer to the property owner;

(4) before making a final offer, the entity obtains a written appraisal from a certified appraiser of the value of the property being acquired and the damages, if any, to any remaining property;

(5) the final offer is equal to or greater than the amount of the written appraisal obtained by the entity;

(6) the following items are included with the final offer or have been previously provided to the owner by the entity:

(A) a copy of the written appraisal;

(B) a copy of the deed, easement, or other instrument conveying the property sought to be acquired; and

(C) a landowner's bill of rights statement; and

(7) the entity provides the property owner with at least 14 days to respond to the final offer and the property owner does not agree to the terms of the final offer within that time.

(5) In SECTION 13 of the bill, in added Section 21.047(d)(2), Property Code (page 7, line 13), between "fees" and "incurred", insert "and other professional fees".

(6) In SECTION 14 of the bill, in amended Section 21.101(a)(1), Property Code (page 7, line 26), between "canceled" and the semicolon, insert "before the property is used for that public use".

(7) In SECTION 14 of the bill, in amended Section 21.101(a)(3), Property Code (page 7, line 31), immediately following "acquired", insert ", or a substantially similar public use, before the 10th anniversary of the date of acquisition".

(8) In SECTION 14 of the bill, in amended Section 21.102(2)(A), Property Code (page 8, line 11), strike "has been canceled" and substitute "was [has been] canceled before the property was used for the public use".

(9) In SECTION 14 of the bill, in amended Section 21.102(2)(C), Property Code (page 8, lines 14 and 15), strike "has become unnecessary for the public use" and substitute "became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition".

(10) In SECTION 14 of the bill, in added Section 21.1021(a)(1), Property Code (page 8, line 25), strike "has been canceled" and substitute "was canceled before the property was used for the public use".

(11) In SECTION 14 of the bill, in added Section 21.1021(a)(3), Property Code (page 8, lines 30 and 31), strike "has become unnecessary for the public use of the property" and substitute "became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition".

(12) Strike SECTION 19 of the bill (page 9, lines 18-22) and substitute the following:

SECTION 9. This Act takes effect September 1, 2009.

The amendment to **CSSB 18** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 18** (Senate committee printing) in SECTION 14 of the bill in amended Section 21.101(b), Property Code as follows:

(1) At the end of Subdivision (5) (page 7, line 54), strike "or".

(2) At the end of Subdivision (6), immediately following "acquired" (page 7, line 57), insert the following:

; or

(7) for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subdivisions (1)-(6) within 10 years of acquisition of the property

The amendment to **CSSB 18** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

On motion of Senator Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 18 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

REMARKS ORDERED PRINTED

On motion of Senator Hegar and by unanimous consent, the exchange between Senators Estes and Hegar regarding **CSSB 18** was ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Hegar: Can you explain the effect of the new standard for recovery of access damages found in Property Code 21.042(d), as found in Section 10 of the bill (page 6, lines 40-53)?

Senator Estes: In certain circumstances, we would want more landowners who are currently not recovering for loss of access under the "material and substantial" test as that test is currently interpreted by the courts to recover for loss of access. We are acting here to change the current state of the law on that issue. We want the words in 21.042(d) to be interpreted such that if a property owner suffers a loss of access that is material—not trivial, nominal, imaginary, or speculative—and that loss affects the market value of the property, then the court must allow the factfinder to consider evidence on that loss when the factfinder determines what damages are due to the landowner. It's a lower standard than "material and substantial" and a higher standard than "any diminished access" proposed in the filed version of this bill.

Senator Hegar: Thank you.

**COMMITTEE SUBSTITUTE
SENATE BILL 18 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 18** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 2258 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2258** at this time on its second reading:

CSSB 2258, Relating to intensive summer programs for public school students and to college readiness programs at public institutions of higher education.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 2258** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike amended Section 29.098, Education Code (page 1, line 15, through page 2, line 45) and substitute the following:

Sec. 29.098. INTENSIVE SUMMER PROGRAMS. (a) In this section, "pilot program" means the intensive summer pilot program for students identified as being at risk of dropping out of school or college.

(b) ~~The [From funds appropriated for that purpose, the] commissioner [of education and the commissioner of higher education by rule]~~ shall establish a pilot program to award grants to participating campuses to provide intensive academic instruction during the period in which school is recessed for the summer ~~[semester]~~ to promote college and workforce readiness to students identified as being at risk of dropping out of school, as defined by Section 29.081 ~~[or college]~~. A grant awarded under this section may be used to fund any of the following categories of programs:

(1) ~~[a program administered by an institution of higher education to provide intensive academic instruction in English language arts, mathematics, and science to facilitate the student's transition from high school to a postsecondary institution;~~

~~[(2)]~~ a program administered by a school district in partnership with an institution of higher education to provide intensive academic instruction in English language arts, mathematics, and science to promote high school completion and college readiness; and

~~(2) [(3)]~~ a program administered by a school district in partnership with an institution of higher education to provide intensive academic instruction in reading and mathematics to students in grades six through eight to promote high school completion and college readiness.

(c) The commissioner ~~[of education]~~ may select for participation in the pilot program only a campus that is eligible under the criteria established under Section 39.358.

(d) ~~[A grant may be awarded to an institution of higher education for a program administered under Subsection (b)(1) only if at least 50 percent of the students served in the program:~~

~~[(1) have a score on the Scholastic Assessment Test (SAT) or American College Test (ACT) that is equal to a score less than the national mean score;~~

~~[(2) have been awarded a grant under the federal Pell grant program;~~

~~[(3) are at least 20 years of age on the date the student initially enrolls in the institution of higher education; or~~

~~[(4) have enrolled or will initially enroll as a part time student.~~

~~[(e) A program supported by a grant to provide intensive summer instruction under this section must:~~

~~[(1) provide rigorous academic instruction;~~

~~[(2) provide at least four weeks of instruction; and~~

~~[(3) for a program described by Subsection (b)(2) or (3), be designed and implemented in partnership with an institution of higher education.~~

~~[(f) To the extent practicable, an institution of higher education shall create work study opportunities for students enrolled in teacher preparation programs to assist in providing instruction in programs described by this section.~~

~~[(g)] A grant awarded under this section:~~

~~(1) may not exceed \$750 for each participating student; and~~

~~(2) must be matched by not less than \$250 for each participating student in other federal, state, or local funds, including private donations.~~

~~(e) [(h)] For purposes of Subsection (d)(2) [(g)(2)], a school district is encouraged to use funds allocated under Section 42.2516(b)(3).~~

~~(f) [(i)] A grant awarded under this section may not be used to replace federal, state, or local funds previously spent on a summer intensive program, but may be used to expand an existing program.~~

~~(g) [(j)] The entire amount of a grant awarded under this section:~~

~~(1) must fund the program described in the application for the grant; and~~

~~(2) may be used for:~~

~~(A) instructional materials;~~

~~(B) technology used primarily for the delivery of supplementary instruction;~~

~~(C) teacher training and professional development, including educator stipends; and~~

~~(D) other necessary costs, as determined by the commissioner [of education].~~

~~(h) [(k)] Instructional materials adopted by the State Board of Education shall be used for instruction in a program under this section [Subsection (b)(2) or (3)]. The State Board of Education may adopt any additional instructional materials as necessary for a program under this section [Subsection (b)(2) or (3)]. The Texas Higher Education Coordinating Board may adopt instructional materials as necessary for students enrolled in a program under Subsection (b)(1)].~~

(i) [(+) ~~The State Board of Education [and the Texas Higher Education Coordinating Board]~~] shall include information technology instructional resources that incorporate established best practices for instruction among approved instructional materials for intensive summer programs under this section to enhance the effectiveness of the programs.

(2) In SECTION 2 of the bill, in amended Section 61.0762(a)(3), Education Code, between "(3)" and "award" (page 2, line 60), insert "develop a pilot program to".

The amendment to **CSSB 2258** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 2258 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 2258 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2258** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 1748 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **CSSB 1748** at this time on its second reading:

CSSB 1748, Relating to the issuance of a certificate for a municipal setting designation.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

**COMMITTEE SUBSTITUTE
SENATE BILL 748 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 748** at this time on its second reading:

CSSB 748, Relating to the powers and duties of the Fort Bend County Municipal Utility District No. 161; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 748 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 748** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MOTION TO PLACE
HOUSE BILL 2104 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 2104** at this time on its second reading:

HB 2104, Relating to the statute of limitations for an action under the Beer Industry Fair Dealing Law.

Senator Seliger withdrew the motion to suspend the regular order of business.

**COMMITTEE SUBSTITUTE
SENATE BILL 749 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 749** at this time on its second reading:

CSSB 749, Relating to the powers and duties of the Fort Bend County Municipal Utility District No. 163; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 749 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 749** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1257 ON SECOND READING**

Senator Averitt moved to suspend the regular order of business to take up for consideration **CSSB 1257** at this time on its second reading:

CSSB 1257, Relating to the regulation of certain market conduct activities of certain life, accident, and health insurers and health benefit plan issuers; providing civil liability and administrative and criminal penalties.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1257** (Senate committee report) as follows:

(1) In ARTICLE 3, SECTION 3.001 of the bill, in added Section 501.160(a), Insurance Code (page 7, line 52), strike "15" and substitute "20".

(2) In ARTICLE 3, SECTION 3.001 of the bill, at the end of added Section 501.160(b), Insurance Code (page 7, line 56), insert the following:

A rate may not be considered excessive for the risks to which the rate applies solely because the percentage increase in the premium rate charged exceeds the percentage described by Subsection (a).

(3) In ARTICLE 3, SECTION 3.003 of the bill, in added Section 1501.2131, Insurance Code (page 8, line 10), strike "15" and substitute "20".

(4) In ARTICLE 3, SECTION 3.003 of the bill, at the end of added Section 1501.2131, Insurance Code (page 8, line 13), insert the following:

The complaint facilitation under this section and Chapter 501 is not exclusive and is in addition to any other remedy or complaint procedure provided by law or rule.

The amendment to **CSSB 1257** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Williams.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1257** by striking ARTICLE 2 of the bill (page 6, lines 4-53) and substituting the following:

ARTICLE 2. MEDICAL LOSS RATIO

SECTION 2.001. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1223 to read as follows:

CHAPTER 1223. MEDICAL LOSS RATIO

Sec. 1223.001. DEFINITIONS. In this chapter:

(1) "Enrollee" has the meaning assigned by Section 1457.001.

(2) "Evidence of coverage" has the meaning assigned by Section 843.002.

(3) "Market segment" means, as applicable, one of the following categories of health benefit plans issued by a health benefit plan issuer:

(A) individual evidences of coverage issued by a health maintenance organization;

(B) individual preferred provider benefit plans;

(C) evidences of coverage issued by a health maintenance organization to small employers as defined by Section 1501.002;

(D) preferred provider benefit plans issued to small employers as defined by Section 1501.002;

(E) evidences of coverage issued by a health maintenance organization to large employers as defined by Section 1501.002; and

(F) preferred provider benefit plans issued to large employers as defined by Section 1501.002.

(4) "Medical loss ratio" means direct losses incurred and direct losses paid for all preferred provider benefit plans issued by an insurer, divided by direct premiums earned for all preferred provider benefit plans issued by that insurer. This amount may not include home office and overhead costs, advertising costs, network development costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, utilization review costs, or claims processing costs.

Sec. 1223.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to a health benefit plan issuer that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

(2) a group hospital service corporation operating under Chapter 842;

(3) a fraternal benefit society operating under Chapter 885;

(4) a stipulated premium company operating under Chapter 884;

(5) an exchange operating under Chapter 942;

(6) a health maintenance organization operating under Chapter 843;

(7) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or

(8) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) Notwithstanding any other law, this chapter applies to a health benefit plan issuer with respect to a standard health benefit plan provided under Chapter 1507.

(c) Notwithstanding Section 1501.251 or any other law, this chapter applies to a health benefit plan issuer with respect to coverage under a small employer health benefit plan subject to Chapter 1501.

Sec. 1223.003. EXCEPTIONS. This chapter does not apply with respect to:

(1) a plan that provides coverage:

(A) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;

(B) as a supplement to a liability insurance policy;

(C) for credit insurance;

(D) only for dental or vision care;

(E) only for hospital expenses; or

(F) only for indemnity for hospital confinement;

(2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

(3) a Medicaid managed care program operated under Chapter 533, Government Code;

(4) Medicaid programs operated under Chapter 32, Human Resources Code;

(5) the state child health plan operated under Chapter 62 or 63, Health and Safety Code;

(6) a workers' compensation insurance policy; or

(7) medical payment insurance coverage provided under a motor vehicle insurance policy.

Sec. 1223.004. NOTIFICATION OF MEDICAL LOSS RATIO, MEDICAL COST MANAGEMENT, AND HEALTH EDUCATION COST. (a) A health benefit plan issuer shall report its medical loss ratio for each market segment, as applicable, with the annual report required under Section 843.155 or 1301.009. Beginning in the fourth year during which a health benefit plan issuer is required to make a report under this section, the issuer may report the medical loss ratio as a three-year rolling average.

(b) Each health benefit plan issuer shall include in the report described by Subsection (a), for each market segment, a separate report of costs attributed to medical cost management and health education. The commissioner by rule shall prescribe the reporting requirements for the costs, which may include:

(1) case management activities;

(2) utilization review;

(3) detection and prevention of payment of fraudulent requests for reimbursement;

(4) network access fees to preferred provider organizations and other network-based health benefit plans, including prescription drug networks, and allocated internal salaries and related costs associated with network development or provider contracting;

(5) consumer education solely relating to health improvement and relying on the direct involvement of health personnel, including smoking cessation and disease management programs and other programs that involve medical education;

(6) telephone hotlines, including nurse hotlines, that provide enrollees health information and advice regarding medical care; and

(7) expenses for internal and external appeals processes.

(c) The department shall post on the department's Internet website or another website maintained by the department for the benefit of consumers or enrollees:

(1) the information received under Subsections (a) and (b);

(2) an explanation of the meaning of the term "medical loss ratio," how the medical loss ratio is calculated, and how the ratio may affect consumers or enrollees; and

(3) an explanation of the types of activities and services classified as medical cost management and health education, how the costs for these activities and services are calculated, what those costs, when aggregated with a medical loss ratio, mean, and how the costs might affect consumers or enrollees.

(d) A health benefit plan issuer shall provide each enrollee or the plan sponsor, as applicable, with the Internet website address at which the enrollee or plan sponsor may access the information described by Subsection (c). A health benefit plan issuer must provide the information required under this subsection:

(1) to an enrollee, at the time of the initial enrollment of the enrollee in a health benefit plan issued by the health benefit plan issuer; and

(2) at the time of renewal of a health benefit plan to:

(A) each enrollee, if the health benefit plan is an individual health benefit plan; or

(B) the plan sponsor, if the health benefit plan is a group health benefit plan.

(e) The commissioner shall adopt rules necessary to implement this section.

SECTION 2.002. The change in law made by this article applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2011. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2011, is covered by the law in effect at the time the health benefit plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

The amendment to **CSSB 1257** was read.

Senator Averitt offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 to **CSSB 1257** as follows:

1 Page 1, line 29, strike "and direct losses paid".

2 Page 2, line 1, after "issued by an insurer" strike the comma ",".

The amendment to Floor Amendment No. 2 to **CSSB 1257** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Nays: Williams.

Question recurring on the adoption of Floor Amendment No. 2 to **CSSB 1257**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Williams.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 1257** (Senate committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 1. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1515 to read as follows:

CHAPTER 1515. INFORMATION CONCERNING RESCINDED HEALTH BENEFIT PLANS

Sec. 1515.001. DEFINITION. In this chapter, "coverage document" means a policy or certificate evidencing the coverage of an individual or group under a health benefit plan described by Section 1515.002.

Sec. 1515.002. APPLICABILITY. (a) This chapter applies only to a health benefit plan, including a small or large employer health benefit plan written under Chapter 1501, that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842;
- (3) a fraternal benefit society operating under Chapter 885;
- (4) a stipulated premium company operating under Chapter 884;
- (5) a reciprocal exchange operating under Chapter 942;
- (6) a Lloyd's plan operating under Chapter 941;
- (7) a health maintenance organization operating under Chapter 843;
- (8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or
- (9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.

(b) This chapter does not apply to:

- (1) a health benefit plan that provides coverage only:
 - (A) for a specified disease or diseases or under an individual limited benefit policy;
 - (B) for accidental death or dismemberment;
 - (C) as a supplement to a liability insurance policy; or
 - (D) for dental or vision care;
- (2) disability income insurance coverage or a combination of accident only and disability income insurance coverage;

- (3) credit insurance coverage;
- (4) a hospital confinement indemnity policy;
- (5) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), as amended;
- (6) a workers' compensation insurance policy;
- (7) medical payment insurance coverage provided under a motor vehicle insurance policy; or
- (8) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefits so comprehensive that the policy is a health benefit plan described by Subsection (a) and is not exempted from the application of this chapter.

Sec. 1515.003. REPORT. (a) Each health benefit plan issuer authorized to issue coverage documents in this state shall submit a report to the department containing the rescission rates of coverage documents issued by the issuer.

(b) In addition to the rescission rates described by Subsection (a), the report must contain:

- (1) the number of individuals whose coverage document was rescinded by the health benefit plan issuer during the reporting period for each type of health benefit plan to which this chapter applies;
- (2) the total number of enrollees that were covered by rescinded coverage documents before those documents were rescinded; and
- (3) the reasons for rescission of rescinded coverage documents for each type of health benefit plan to which this chapter applies.

(c) The commissioner shall adopt rules necessary to implement this section, including rules concerning any applicable reporting period and the form of the report required under Subsection (a).

Sec. 1515.004. INTERNET POSTING; CONSUMER HOTLINE. (a) The department shall post on the department's Internet website:

- (1) the information contained in the reports received under Section 1515.003 that is not confidential or proprietary; and
- (2) a form through which consumers may report rescission of a health benefit plan and complaints or suspected violations of the law governing the rescission of health benefit plans.

(b) For purposes of Subsection (a), aggregated information regarding a health benefit plan issuer's rescission rates is not confidential or proprietary.

(c) The department shall operate a toll-free telephone hotline to:

- (1) respond to consumer inquiries concerning the rescission of health benefit plans; and
- (2) provide information to consumers concerning the rescission of health benefit plans and technical assistance with the completion of the form described by Subsection (a)(2).

SECTION 1. __. The commissioner of insurance shall adopt rules under Section 1515.003(c), Insurance Code, as added by this Act, not later than January 1, 2010. The rules must require health benefit plan issuers to submit the first report under Section 1515.003, Insurance Code, as added by this Act, not later than April 1, 2010.

The amendment to **CSSB 1257** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Nays: Williams.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 1257** (Senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **CSSB 1257** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Nays: Williams.

On motion of Senator Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1257 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1257 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1257** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1982 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1982** at this time on its second reading:

CSSB 1982, Relating to the licensing and regulation of pool-related electrical maintenance.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1982 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1982** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 482 WITH HOUSE AMENDMENT

Senator Ellis called **SB 482** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Eltife in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 482** (House committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 442, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. TEXAS HOLOCAUST AND GENOCIDE PROGRAM

Sec. 442.101. DEFINITIONS. In this subchapter:

(1) "Genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such:

(A) killing members of the group;

(B) causing serious bodily or mental harm to members of the group;

(C) deliberately inflicting on the group conditions of life calculated to bring about the group's physical destruction in whole or in part;

(D) imposing measures intended to prevent births within the group; or

(E) forcibly transferring children of the group to another group.

(2) "Holocaust" means the killing of approximately six million Jews and millions of other persons during World War II by the National Socialist German Workers' Party (Nazis) and Nazi collaborators as part of a state-sponsored, systematic program of genocide and other actions of persecution, discrimination, violence, or other human rights violations committed by the Nazis and Nazi collaborators against those persons.

Sec. 442.102. TEXAS HOLOCAUST AND GENOCIDE PROGRAM. (a) The commission shall:

(1) provide advice and assistance to public and private primary and secondary schools and institutions of higher education in this state regarding implementation of Holocaust and genocide courses of study and awareness programs;

(2) meet with appropriate representatives of public and private organizations, including service organizations, to provide information on and to assist in planning, coordinating, or modifying Holocaust and genocide courses of study and awareness programs;

(3) determine which, if any, existing Holocaust or other genocide memorials, exhibits, or other resources could be included in or used to support Holocaust and genocide courses of study and awareness programs;

(4) compile a list of volunteers, such as Holocaust or other genocide survivors, liberators of concentration camps, scholars, and members of the clergy, who have agreed to share, in classrooms, seminars, exhibits, or workshops, their verifiable knowledge and experiences regarding the Holocaust or other genocide;

(5) coordinate events in this state memorializing the Holocaust and other genocides on January 27, International Holocaust Remembrance Day, on the Days of Remembrance established by the United States Congress, or on any other day designated by the commission for that purpose; and

(6) solicit volunteers to participate in commemorative events designed to enhance public awareness of the continuing significance of the Holocaust and other genocides.

(b) In implementing Subsection (a)(3), the commission may contact and cooperate with:

(1) existing public or private Holocaust or other genocide resource organizations, including the United States Holocaust Memorial Museum;

(2) other museums, centers, and organizations based in this state;

(3) state agencies that carry out the educational functions of the state delegated under the Education Code, including the Texas Education Agency and the Texas Higher Education Coordinating Board; and

(4) members of the United States Congress and of the legislature of this state.

SECTION 2. This Act takes effect September 1, 2009.

The amendment was read.

Senator Ellis moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 482** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Shapiro, Seliger, Carona, and Lucio.

(President in Chair)**SENATE BILL 10 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 10** at this time on its second reading:

SB 10, Relating to adoption of alternative payment method pilot programs for the provision of health care services to certain state employees and certain active and retired public school employees.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 10** (Senate committee printing) as follows:

(1) In SECTION 1.01 of the bill, in added Subdivision (1)(C), Section 1551.501, Insurance Code (page 1, line 21), strike "and".

(2) In SECTION 1.01 of the bill, in added Subdivision (1)(D), Section 1551.501, Insurance Code (page 1, line 22), between "system" and the period, insert the following:
; and

(E) another system other than fee-for-service

(3) In SECTION 1.01 of the bill, added Subdivision (7), Section 1551.501, Insurance Code (page 1, line 49), add the following after the period:

A pay-for-performance payment system may include the provision of bonuses to or the sharing of realized savings with physicians and other health care providers.

(4) In SECTION 1.01 of the bill, strike added Section 1551.503, Insurance Code (page 2, lines 11-21), and substitute the following:

Sec. 1551.503. STANDARDS; CLINICAL INTEGRATION. In connection with the program, the board of trustees shall support nationally recognized quality of care standards and evidence-based best practices to ensure high-quality and effective health care services. The board of trustees shall support policies to promote clinical integration of health care providers.

(5) In SECTION 1.01 of the bill, in added Subdivision (1), Subsection (a), Section 1551.504, Insurance Code (page 2, lines 25 and 26), strike "primary care" each place it appears.

(6) In SECTION 1.01 of the bill, in added Subdivision (2), Subsection (a), Section 1551.504, Insurance Code (page 2, lines 28 and 30), strike "primary care physician" each place it appears and substitute "physician".

(7) In SECTION 1.01 of the bill, in added Subdivision (2), Subsection (a), Section 1551.504, Insurance Code (page 2, line 29), strike "primary care health" and substitute "health".

(8) In SECTION 1.01 of the bill, in added Subdivision (2), Subsection (a), Section 1551.504, Insurance Code (page 2, line 31), strike "primary care provider" and substitute "health care provider".

(9) In SECTION 1.03 of the bill (page 2, lines 47-48), strike ", beginning September 1, 2009".

(10) In SECTION 1.03 of the bill (page 2, line 49), strike "not later than March 1, 2010,".

(11) In SECTION 1.03 of the bill (page 2, lines 50-51), between "beginning" and "not", insert "as soon as practicable, but".

(12) Strike SECTION 1.06 of the bill (page 2, line 69, through page 3, line 15), and substitute the following:

SECTION _____. The board of trustees of the Employees Retirement System of Texas shall include as part of the annual report required by Section 1551.061, Insurance Code, results of the pilot program established under Subchapter K, Chapter 1551, Insurance Code, as added by this Act.

(13) Number and renumber SECTIONS of ARTICLE 1 of the bill appropriately.

(14) In SECTION 2.01 of the bill, in added Subdivision (1)(C), Section 1575.551, Insurance Code (page 3, line 25), strike "and".

(15) In SECTION 2.01 of the bill, in added Subdivision (1)(D), Section 1575.551, Insurance Code (page 3, line 26), between "system" and the period, insert the following:

; and

(E) another system other than fee-for-service

(16) In SECTION 2.01 of the bill, added Subdivision (7), Section 1575.551, Insurance Code (page 3, line 53), add the following after the period:

A pay-for-performance system may include the provision of bonuses to or the sharing of realized savings with physicians and other health care providers.

(17) In SECTION 2.01 of the bill, strike added Section 1575.553, Insurance Code, (page 4, lines 10-19) and substitute the following:

Sec. 1575.553. STANDARDS; CLINICAL INTEGRATION. In connection with the pilot program, the trustee shall support nationally recognized quality of care standards and evidence-based best practices to ensure high-quality and effective health care services. The trustee shall support policies to promote clinical integration of health care providers.

(18) In SECTION 2.01 of the bill, in added Subdivision (1), Subsection (a), Section 1575.554, Insurance Code (page 4, lines 23 and 24), strike "primary care" each place it appears.

(19) In SECTION 2.01 of the bill, in added Subdivision (2), Subsection (a), Section 1575.554, Insurance Code (page 4, lines 26 and 28), strike "primary care physician" each place it appears and substitute "physician".

(20) In SECTION 2.01 of the bill, in added Subdivision (2), Subsection (a), Section 1575.554, Insurance Code (page 4, line 27), strike "primary care health" and substitute "health".

(21) In SECTION 2.01 of the bill, in added Subdivision (2), Subsection (a), Section 1575.554, Insurance Code (page 4, line 29), strike "primary care provider" and substitute "health care provider".

(22) In SECTION 2.03 of the bill (page 4, line 45), strike ", beginning September 1, 2009".

(23) In SECTION 2.03 of the bill (page 4, lines 46-47), strike "not later than March 1, 2010,".

(24) In SECTION 2.03 of the bill (page 4, line 48), between "beginning" and "not", insert "as soon as practicable, but".

(25) Renumber SECTIONS of ARTICLE 2 of the bill appropriately.

(26) In SECTION 3.01 of the bill, in added Subdivision (1)(C), Section 1579.351, Insurance Code (page 5, line 21), strike "and".

(27) In SECTION 3.01 of the bill, in added Subdivision (1)(D), Section 1579.351, Insurance Code (page 5, line 22), between "system" and the period, insert the following:

; and

(E) another system other than fee-for-service

(28) In SECTION 3.01 of the bill, in added Subdivision (7), Section 1579.351, Insurance Code (page 5, line 49), add the following after the period:

A pay-for-performance payment system may include the provision of bonuses to or the sharing of realized savings with physicians and other health care providers.

(29) In SECTION 3.01 of the bill, strike added Section 1579.353, Insurance Code, (page 6, lines 6-15) and substitute the following:

Sec. 1579.353. STANDARDS; CLINICAL INTEGRATION. In connection with the pilot program, the trustee shall support nationally recognized quality of care standards and evidence-based best practices to ensure high-quality and effective health care services. The trustee shall support policies to promote clinical integration of health care providers.

(30) In SECTION 3.01 of the bill, in added Subdivision (1), Subsection (a), Section 1579.354, Insurance Code (page 6, lines 19 and 20), strike "primary care" each place it appears.

(31) In SECTION 3.01 of the bill, in added Subdivision (2), Subsection (a), Section 1579.354, Insurance Code (page 6, lines 22 and 24), strike "primary care physician" each place it appears and substitute "physician".

(32) In SECTION 3.01 of the bill, in added Subdivision (2), Subsection (a), Section 1579.354, Insurance Code (page 6, line 23), strike "primary care health" and substitute "health".

(33) In SECTION 3.01 of the bill, in added Subdivision (2), Subsection (a), Section 1579.354, Insurance Code (page 6, line 25), strike "primary care provider" and substitute "health care provider".

(34) In SECTION 3.03 of the bill (page 6, line 44), strike ", beginning September 1, 2009".

(35) In SECTION 3.03 of the bill (page 6, lines 45-46), strike "not later than March 1, 2010,".

(36) In SECTION 3.03 of the bill (page 6, line 47), between "beginning" and "not", insert "as soon as practicable, but".

(37) Renumber SECTIONS of ARTICLE 3 of the bill appropriately.

The amendment to **SB 10** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 10**, Senate committee printing, as follows:

(1) In SECTION 1.01 of the bill, in added Subsection (c), Section 1551.502, Insurance Code, (page 2, lines 2 and 3) strike "The board of trustees may limit participation in the pilot program to:", and substitute "To ensure effective operation of the pilot program, the board of trustees shall establish reasonable limits for participation, and may limit participation in the pilot program to:".

(2) In SECTION 2.01 of the bill, in added Subsection (c), Section 1575.552, Insurance Code, (page 4, lines 1 and 2) strike "The trustee may limit participation in the pilot program to:", and substitute "To ensure effective operation of the pilot program, the trustee shall establish reasonable limits for participation, and may limit participation in the pilot program to:".

(3) In SECTION 3.01 of the bill, in added Subsection (c), Section 1579.352, Insurance Code, (page 5, lines 66 and 67) strike "The trustee may limit participation in the pilot program to:", and substitute "To ensure effective operation of the pilot program, the trustee shall establish reasonable limits for participation, and may limit participation in the pilot program to:".

The amendment to **SB 10** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 10**, Senate committee printing, as follows:

(1) In SECTION 1.01 of the bill, insert added Section 1551.505, Insurance Code, (page 2, between lines 37 and 38) to read as follows:

Sec. 1551.505. PARTICIPATING ENROLLEE INPUT. In adopting requirements for the pilot program under this section, the board of trustees shall adopt procedures that allow the participating enrollees to provide input as to the operation of the program. The board of trustees shall solicit enrollee input regarding:

(1) the availability and quality of the health care received by participating enrollees through the pilot program;
(2) the efficiency of the provision of that health care; and
(3) costs incurred by the enrollees for health care provided through the program, including copayments, fees for service, and other analogous costs.

(2) In SECTION 2.01 of the bill, insert added Section 1575.555, Insurance Code, (page 4, between lines 34 and 35) to read as follows:

Sec. 1575.555. PARTICIPATING ENROLLEE INPUT. In adopting requirements for the pilot program under this section, the trustee shall adopt procedures that allow the participating enrollees to provide input as to the operation of the program. The trustee shall solicit enrollee input regarding:

(1) the availability and quality of the health care received by participating enrollees through the pilot program;
(2) the efficiency of the provision of that health care; and

(3) costs incurred by the enrollees for health care provided through the program, including copayments, fees for service, and other analogous costs.

(3) In SECTION 3.01 of the bill, insert added Section 1579.355, Insurance Code, (page 6, between lines 30 and 31) to read as follows:

Sec. 1579.355. PARTICIPATING ENROLLEE INPUT. In adopting requirements for the pilot program under this section, the trustee shall adopt procedures that allow the participating enrollees to provide input as to the operation of the program. The trustee shall solicit enrollee input regarding:

(1) the availability and quality of the health care received by participating enrollees through the pilot program;

(2) the efficiency of the provision of that health care; and

(3) costs incurred by the enrollees for health care provided through the program, including copayments, fees for service, and other analogous costs.

The amendment to **SB 10** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

On motion of Senator Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 10 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 10 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 10** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2104 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2104** at this time on its second reading:

HB 2104, Relating to the statute of limitations for an action under the Beer Industry Fair Dealing Law.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2104** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, at the end of added Section 102.82, Alcoholic Beverage Code (page 1, line 15), insert the following:

If a termination related to a change in ownership of the brand in the manufacturing tier occurs, the cause of action accrues when either the new brand owner or the transferring or selling brand owner provides notice of termination to the distributor.

(2) Strike SECTION 2 and replace it with the following:

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose. Under existing law, it is the policy of this State that the protections provided to distributors in Subchapters C and D, Chapter 102, Alcoholic Beverage Code, apply to a distributor regardless of whether there is a transfer or change of ownership of a brand in the manufacturing tier and such causes of actions will be subject to the same statute of limitations as any other cause of action brought under this Chapter.

The amendment to **HB 2104** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2104 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2104 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2104** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1835 ON SECOND READING

Senator Patrick moved to suspend the regular order of business to take up for consideration **CSSB 1835** at this time on its second reading:

CSSB 1835, Relating to the offenses of unauthorized duplication, unauthorized recording, and improper labeling of recordings.

The motion prevailed.

Senator Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Huffman, on behalf of Senator West, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1835** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 641, Business & Commerce Code, is transferred to Chapter 32, Penal Code, redesignated as Subchapter E, Chapter 32, Penal Code, and amended to read as follows:

SUBCHAPTER E [~~CHAPTER 641~~]. UNAUTHORIZED RECORDINGS

~~[SUBCHAPTER A. GENERAL PROVISIONS]~~

Sec. 32.71 [~~641.001~~]. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Fix" means to embody in a recording or other tangible medium of expression, by or under the authority of the author, so that the matter embodied is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.

(2) "Live performance" means a recitation, rendering, or playing of a series, in an audible sequence, of:

- (A) images;
- (B) musical, spoken, or other sounds; or
- (C) a combination of images and sounds.

(3) "Owner" means a person who owns the sounds fixed in a master phonograph record, master disc, master tape, master film, or other recording:

- (A) on which sound is recorded; and
- (B) from which the transferred recorded sounds are directly or indirectly derived.

(4) "Recording" means a tangible medium on which sounds, images, or both are recorded or otherwise stored, including:

(A) an original phonograph record, disc, tape, audio or video cassette, wire, film, electronic storage device, or other medium now existing or later developed; or

- (B) a copy or reproduction that wholly or partly duplicates the original.

~~[SUBCHAPTER B. PROHIBITED PRACTICES; PENALTIES]~~

Sec. 32.72 [~~641.051~~]. UNAUTHORIZED DUPLICATION OF CERTAIN RECORDINGS. (a) This section applies only to a recording that was initially fixed before February 15, 1972.

(b) A person commits an offense if the person:

(1) knowingly reproduces for sale or causes to be transferred any recording with intent to sell the recording or cause the recording to be sold or use a recording or cause the recording to be used for commercial advantage or private financial gain through public performance without the consent of the owner;

(2) with the knowledge that the sounds on a recording have been reproduced or transferred without the consent of the owner, transports the recording within this state for commercial advantage or private financial gain; or

(3) with the knowledge that a recording has been reproduced or transferred without the consent of the owner:

- (A) advertises, offers for sale, sells, or rents the recording;
- (B) causes the sale, resale, or rental of the recording; or
- (C) possesses the recording for a purpose described by Paragraph (A) or

(B).

(c) [~~An offense under this section is punishable by:~~

~~[(1) imprisonment for a term of not more than five years, a fine not to exceed \$250,000, or both, if:~~

~~[(A) the offense involves at least 1,000 unauthorized recordings during a 180-day period; or~~

~~[(B) the defendant has been previously convicted under this section;~~

~~[(2) imprisonment for a term of not more than two years, a fine not to exceed \$250,000, or both, if the offense involves more than 100 but fewer than 1,000 unauthorized recordings during a 180-day period; or~~

~~[(3) confinement in the county jail for a term of not more than one year, a fine not to exceed \$25,000, or both, if the offense is not otherwise punishable under Subdivision (1) or (2).]~~

~~[(d)] This section does not apply to any fees due to the American Society of Composers, Authors and Publishers.~~

Sec. 32.73 [641.052]. UNAUTHORIZED RECORDING OF LIVE PERFORMANCE. (a) A person commits an offense if the person, with the knowledge that a live performance has been recorded or fixed without the consent of the owner:

(1) for commercial advantage or private financial gain, advertises, offers for sale, sells, rents, or transports, causes the sale, resale, rental, or transportation of, or possesses for one or more of these purposes a recording containing sounds of the live performance; or

(2) with the intent to sell for commercial advantage or private financial gain, records or fixes the live performance, or causes the live performance to be recorded or fixed on a recording.

(b) ~~[An offense under this section is punishable by:~~

~~[(1) imprisonment for a term of not more than five years, a fine not to exceed \$250,000, or both, if:~~

~~[(A) the offense involves at least 1,000 unauthorized recordings embodying sound or at least 65 unauthorized audiovisual recordings during a 180-day period; or~~

~~[(B) the defendant has been previously convicted under this section;~~

~~[(2) imprisonment for a term of not more than two years, a fine not to exceed \$250,000, or both, if the offense involves more than 100 but fewer than 1,000 unauthorized recordings embodying sound or more than seven but fewer than 65 unauthorized audiovisual recordings during a 180-day period; or~~

~~[(3) confinement in the county jail for a term of not more than one year, a fine not to exceed \$25,000, or both, if the offense is not otherwise punishable under Subdivision (1) or (2).]~~

~~[(e)] In the absence of a written agreement or law to the contrary, the performer or performers of a live performance are presumed to own the rights to record or fix those sounds.~~

~~[(c)]~~ ~~[(d)]~~ For purposes of this section, a person authorized to maintain custody and control over business records that reflect whether the owner of a live performance consented to having the live performance recorded or fixed is a proper witness in a proceeding regarding the issue of consent. A witness called under this subsection is subject to the rules of evidence relating to the competency of a witness to testify and the relevance and admissibility of the testimony offered.

Sec. 32.74 ~~[641.053]~~. UNAUTHORIZED OPERATION OF RECORDING DEVICE IN MOTION PICTURE THEATER. (a) In this section:

(1) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology now known or later developed.

(2) "Motion picture theater" means a movie theater, screening room, or other place primarily used to exhibit a motion picture.

(b) A person commits an offense if, without the consent of the owner of the theater, the person, with the intent to record a motion picture, knowingly operates the audiovisual recording function of any device in a motion picture theater while the motion picture is being exhibited.

(c) ~~[An offense under this section is a Class A misdemeanor, except that the offense is:~~

~~[(1) a state jail felony if the person has been previously convicted one time of an offense under this section; or~~

~~[(2) a felony of the third degree if the person has been previously convicted two or more times of an offense under this section.~~

~~[(d)]~~ It is a defense to prosecution under this section that the audiovisual recording function of the device was operated solely for official law enforcement purposes.

~~[(d)]~~ If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

~~[(e)]~~ A person who reasonably believes that another has knowingly operated the audiovisual recording function of a device in a motion picture theater in violation of this section is privileged to detain that other person in a reasonable manner and for a reasonable time to allow for the arrival of law enforcement authorities.

Sec. 32.75 ~~[641.054]~~. IMPROPER LABELING. ~~[(a)]~~ A person commits an offense if:

(1) for commercial advantage or private financial gain, the person knowingly:

(A) advertises, offers for sale, sells, rents, or transports a recording;

(B) causes the sale, resale, rental, or transportation of a recording; or

(C) possesses a recording for a purpose described by Paragraph (A) or

(B); and

(2) the outside cover, box, label, or jacket of the recording does not clearly and conspicuously disclose~~[-~~

~~[(A)] the actual name and address of the manufacturer[- and~~

~~[(B) the name of the performer or group].~~

~~[(b) An offense under this section is punishable by:~~

~~[(1) imprisonment for a term of not more than five years, a fine not to exceed \$250,000, or both, if:~~

~~[(A) the offense involves at least 65 unauthorized recordings during a 180-day period; or~~

~~[(B) the defendant has been previously convicted under this section;~~

~~[(2) imprisonment for a term of not more than two years, a fine not to exceed \$250,000, or both, if the offense involves more than seven but fewer than 65 unauthorized recordings during a 180-day period; or~~

~~[(3) confinement in the county jail for a term of not more than one year, a fine not to exceed \$25,000, or both, if the offense is not otherwise punishable under Subdivision (1) or (2).]~~

Sec. 32.76. PENALTIES. (a) Except as provided by Subsection (b), an offense under this subchapter is:

(1) a Class C misdemeanor if the value of pecuniary loss to the owner of or lawful producer of the recording is less than \$50;

(2) a Class B misdemeanor if the value of pecuniary loss to the owner of or lawful producer of the recording is \$50 or more but less than \$500;

(3) a Class A misdemeanor if the value of pecuniary loss to the owner of or lawful producer of the recording is \$500 or more but less than \$1,500;

(4) a state jail felony if the value of pecuniary loss to the owner of or lawful producer of the recording is \$1,500 or more but less than \$20,000; or

(5) a felony of the third degree if the value of pecuniary loss to the owner of or lawful producer of the recording is \$20,000 or more.

(b) The punishment prescribed for an offense that is punishable under Subsection (a)(1), (2), (3), or (4) is increased to the next highest category of offense if the defendant has one or more times been previously convicted of or received a grant of deferred adjudication community supervision for an offense under this subchapter.

Sec. 32.77 ~~[641.055]~~. FORFEITURE. If a person is convicted of an offense under ~~[a violation of]~~ this subchapter ~~[chapter]~~, the court in its judgment of conviction shall order the forfeiture and destruction or other disposition of:

(1) all recordings on which the conviction is based; and

(2) all devices and equipment used or intended to be used in the manufacture of the recordings on which the conviction is based.

Sec. 32.78. RESTITUTION. (a) If a person is convicted of an offense under this subchapter, the court shall order the person to make restitution to:

(1) an owner or lawful producer of a master recording who has suffered pecuniary loss as a result of the offense; or

(2) a trade association that represents an owner or lawful producer described by Subdivision (1).

(b) The court shall base the amount of restitution on the value of the recordings involved in the offense, as determined under Section 32.02.

~~[Sec. 641.056. PRIVATE RIGHTS AND REMEDIES NOT AFFECTED. Sections 641.051, 641.052, and 641.054 do not affect the rights and remedies of a party in private litigation.]~~

~~[Sec. 641.057. PENALTIES CUMULATIVE. A penalty provided by this chapter is in addition to any other penalty provided under other law.]~~

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

The amendment to **CSSB 1835** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Hegar, Zaffirini.

On motion of Senator Patrick and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1835 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Hegar, Zaffirini.

COMMITTEE SUBSTITUTE SENATE BILL 1835 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1835** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams.

Nays: Hegar, Zaffirini.

PERMISSION TO INTRODUCE BILL AND RESOLUTION

On motion of Senator Ogden and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bill and resolution: **SB 2573, SCR 70**.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Jackson submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Members, Texas Medical Board: David Baucom, Hopkins County; Patrick J. Crocker, Travis County; John D. Ellis, Jr., Harris County; Manuel G. Guajardo, M.D., P.A., Cameron County; James "Scott" Holliday, D.O., Dallas County; Allan N. Shulkin, Dallas County; Wynne McCallie Snoots, Dallas County; Timothy J. Turner, Harris County; George Willeford, Travis County.

Judge, 141st Judicial District Court, Tarrant County: John Parrish Chupp, Tarrant County.

Presiding Judge, Second Administrative Judicial Region: Olen U. Underwood, Montgomery County.

Members, Aging and Disability Services Council: Glyn S. Crane, Gregg County; Carolyn Harvey, Smith County; Ann Schneider, Travis County; James Russell Shannon, Andrews County; David E. Young, Dallas County.

Members, Assistive and Rehabilitative Services Council: Lee Chayes, El Paso County; David Coco, Williamson County; Diego Demaya, Harris County; Berkley Dyer, Travis County; Donald Dennis Roy, Titus County; Mary Taylor "Jody" Unruh, Harris County.

Members, Oversight Committee, Cancer Prevention and Research Institute of Texas: Malcolm Gillis, Harris County; Faith Simmons Johnson, Dallas County; Scott Curtis Sanders, Hays County.

Members, Board of Directors, Central Colorado River Authority: Billy Bledsoe, Coleman County; Mathew Kemper Gaines, Coleman County; Kimberly Ethetton Home, Coleman County; Willis N. Hudson, Coleman County; Patrick Shane Justiss, Coleman County; David "Lance" McWhorter, Coleman County; Roger Nelson, Coleman County; Bruce N. Pittard, Coleman County; Andrew Mark Young, Coleman County.

Member, Correctional Managed Health Care Committee: Gerald Evenwel, Jr., Titus County.

Members, Credit Union Commission: David Jesus Cibrian, Bexar County; Gary L. Janacek, Bell County; A. John Yoggerst, Bexar County.

Members, Board of Directors, Family and Protective Services Council: Christina Rawls Martin, Hidalgo County; Imogen Sherman Papadopoulos, Harris County; Scott Rosenbach, Potter County.

Member, Judicial Compensation Commission: Cruz G. Hernandez, Tarrant County.

Members, Board of Directors, Lavaca-Navidad River Authority: Jon E. Bradford, Jackson County; Sherry Kay Frels, Jackson County; Olivia R. Jarratt, Jackson County.

Members, Board of Directors, Lower Colorado River Authority: Steve K. Balas, Colorado County; Lori A. Berger, Fayette County; John C. Dickerson III, Matagorda County; Rebecca Armendariz Klein, Bexar County; Tom Martine, Blanco County; Michael G. McHenry, San Saba County; Vernon Earl "Buddy" Schrader, Llano

County; Richard R. Scott, Hays County; Franklin Scott Spears, Jr., Travis County; Timothy Theodor Timmerman, Travis County; Kathleen Hartnett White, Bastrop County.

Members, Board of Directors, Lower Neches Valley Authority: Lonnie Arrington, Jefferson County; Brian Babin, Tyler County; Steven M. McReynolds, Jefferson County; Matthew McDade Phelan, Jefferson County; Jordan William Reese IV, Jefferson County; James Olan Webb, Hardin County.

Members, Manufactured Housing Board: Devora Denise Mitchell, Winkler County; Paul "Pablo" Schneider, Collin County; Sheila M. Vallés-Pankratz, Hidalgo County; Donnie W. Wisenbaker, Hopkins County.

Members, Board of Directors, Nueces River Authority: W. Scott Bledsoe III, Live Oak County; Karen Olsen Bonner, Nueces County; Rebecca Bradford, Nueces County; Fernando Camarillo, Bexar County; Manuel D. Cano, Nueces County; Joe M. Cantu, Bandera County; James T. Clancy, San Patricio County; William I. Dillard, Uvalde County; Robert M. "Bobby" Dullnig, Bexar County; John W. Galloway, Bee County; Gary A. Jones, Bee County; Lindsey Alfred Koenig, Jim Wells County; Dan S. Leyendecker, Nueces County; Scott James Petty, Medina County; Curt William Raabe, Wilson County; Thomas M. Reding, Jr., San Patricio County; Roxana Proctor Tom, Atascosa County.

Inspector General, Office of Inspector General, Health and Human Services Commission: Kelly Bart Bevers, Williamson County.

Members, Real Estate Research Advisory Committee: Mona Reichelt Bailey, Tarrant County; James Michael Boyd, Harris County; Louis A. "Tony" Cortes, Bexar County; Joe Bob McCartt, Potter County; Kathleen McKenzie Owen, Bandera County; Ronald Charles Wakefield, Bexar County.

Members, Board of Directors, Red River Authority of Texas: Nathan James "Jim" Bell IV, Lamar County; Elizabeth C. "Lisa" Brent, Potter County; C. Cole Camp, Potter County; Penny Cogdell Carpenter, Briscoe County; Jerry B. Daniel, Knox County; Billy Mayfield McCraw II, Fannin County; George Wilson Scaling II, Clay County; Clyde M. Siebman, Grayson County; Cliff A. Skiles, Jr., D.V.M., Dallam County.

Members, Board of Directors, Rio Grande Regional Water Authority: Joe A. Barrera III, Cameron County; Dario V. Guerra, Jr., Hidalgo County; Wayne Morris Halbert, Cameron County; Paul Glen Heller, Hidalgo County; Sonny Hinojosa, Hidalgo County; Sonia Kaniger, Cameron County; Brian E. Macmanus, Cameron County; Joe A. Pennington, Willacy County; Roel Rodriguez, Hidalgo County; Samuel Robert Sparks, Jr., Cameron County; Jimmie E. Steidinger, Hidalgo County; Frank "JoJo" White, Hidalgo County.

Members, Risk Management Board: Ernest C. Garcia, Travis County; Lloyd M. Garland, M.D., Lubbock County; Ruben W. Hope, Jr., Montgomery County; Kenneth N. Mitchell, El Paso County.

Members, Board of Directors, Sabine River Authority: Don O. Covington, Orange County; J. D. Jacobs, Jr., Rockwall County; David Wayne Koonce, Shelby County; Cliff R. Todd, Panola County; Clarence Earl Williams, Orange County.

Members, Board of Directors, San Jacinto River Authority: David Carl Kleimann, Montgomery County; Robert Gary Montgomery, Montgomery County; Joe Stunja, Harris County; Lloyd B. Tisdale, Montgomery County; Joseph Vester Turner, Montgomery County.

Members, State Health Services Council: Kirk Aquilla Calhoun, M.D., Smith County; Lewis E. Foxhall, M.D., Harris County; Glenda Rubin Kane, Nueces County; Nasruddin Rupani, Fort Bend County; David Woolweaver, M.S.D., Cameron County.

Members, Board of Regents, The Texas A&M University System: Phillip David Adams, Brazos County; Richard Arthur Box, D.D.S., Travis County; Morris Edwin Foster, Harris County; Bill Jones, Travis County; James Eugene Schwertner, Jr., Travis County; James P. Wilson, Jr., Fort Bend County.

Members, Texas Board of Professional Geoscientists: Kelly Krenz Doe, Galveston County; Ben Harris, Collin County; Charles Saron Knobloch, Harris County.

Member, Texas Commission on Environmental Quality: Bryan Webb Shaw, Williamson County.

Members, Texas Council on Autism and Pervasive Developmental Disorders: Michael R. Bernoski, Williamson County; Rick L. Campbell, Shelby County; Anna Penn Hundley, Dallas County; Frank C. McCamant, Travis County; Pamela Rollins, Dallas County; Stephanie Sokolosky, Lubbock County; Manuel M. Vela, Cameron County.

Members, Governing Board, Texas Department of Housing and Community Affairs: Leslie Bingham Escareño, Cameron County; Tomas Cardenas, Jr., P.E., El Paso County; C. Kent Conine, Dallas County; Tom H. Gann, Angelina County; Juan Sanchez Munoz, Lubbock County.

Members, Board of Directors, Texas Economic Development Corporation: Victor E. Leal, Randall County; Tracye McDaniel, Harris County.

Members, Texas Facilities Commission: Malcolm E. Beckendorff, Harris County; William Derek Darby, Harris County; Virginia I. Hermosa, Travis County; Brant C. Ince, Dallas County.

Members, Texas Industrialized Building Code Council: Robert L. Bowling IV, El Paso County; Joe D. Campos, Dallas County; Randall R. Childers, McLennan County; Mark George Delaney, Harris County; Amy Dempsey, Travis County; Martin J. Garza, Bexar County; Michael Mount, Denton County; Mark Remmert, Williamson County; Rolando R. Rubiano, P.E., Cameron County; Ravi Shah, Denton County; Larry E. Wilkinson, Galveston County.

Members, Texas Low-Level Radioactive Waste Disposal Compact Commission: Richard H. Dolgener, Andrews County; Michael S. Ford, Randall County; Bob Gregory, Travis County; Kenneth Lee Peddicord, Brazos County; John C. White, Collin County; Robert C. Wilson, Caldwell County.

Members, Board of Directors, Texas Public Finance Authority: Gerald Byron Alley, Tarrant County; Rodney Keith Moore, Angelina County; Gary Eugene Wood, Travis County.

Members, Texas Racing Commission: Ronald F. Ederer, Bexar County; Gloria Hicks, Nueces County; Thomas Latham, Dallas County; Rolando B. Pablos, Bexar County; Robert Herman Schmidt, Tarrant County; Vicki Smith Weinberg, Tarrant County.

Members, Board of Regents, Texas Southern University: Samuel Lee Bryant, Travis County; Dionicio "Don" Flores, El Paso County; Richard Knight, Jr., Dallas County; Curtistene Smith McCowan, Dallas County; Tracye McDaniel, Harris County.

Members, Board of Directors, Texas State Affordable Housing Corporation: William Henry "Bill" Dietz, Jr., McLennan County; Robert Elliott Jones, Nueces County; A. Cynthia Leon, Hidalgo County; Raymond Carter "Sandy" Sanders, Williamson County.

Members, Texas State Board of Pharmacy: Buford T. Abeldt, Sr., Angelina County; L. Suzan Kedron, Dallas County; Dennis Wiesner, Travis County.

Member, Texas State Library and Archives Commission: Larry Gene Holt, Brazos County.

Members, Texas Workforce Commission: Andres Alcantar, Travis County; Thomas W. Pauken, Dallas County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Jackson gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)

On motion of Senator Williams and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting today and tomorrow.

NOTICE GIVEN FOR LOCAL AND UNCONTESTED CALENDAR

Senator Williams announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 7:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

MOTION TO RECESS AND ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 3:03 p.m. agreed to recess, upon completion of the introduction of bills and resolutions on first reading, until 7:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

The Senate at 3:03 p.m. further agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 11:00 a.m. tomorrow.

SENATE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution were introduced, read first time, and referred to the committees indicated:

SB 2573 by Ogden

Relating to annual reports by certain agencies conducting, funding, or supporting biomedical research.

To Committee on Health and Human Services.

SCR 70 by Huffman

Expressing support of the Ecumenical Patriarchate, in Istanbul, urging intervention by the United States, the European Union, and the United Nations to stop institutional discrimination against the Ecumenical Patriarchate, and calling on the government of Turkey to safeguard religious rights within its borders, including those of the Ecumenical Patriarchate.

To Committee on State Affairs.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

HB 3 to Committee on Education.

HB 10 to Committee on Business and Commerce.

HB 51 to Committee on Higher Education.

HB 58 to Committee on Higher Education.

HB 144 to Committee on Jurisprudence.

HB 383 to Committee on Intergovernmental Relations.

HB 527 to Committee on Intergovernmental Relations.

HB 529 to Committee on Transportation and Homeland Security.

HB 601 to Committee on Health and Human Services.

HB 635 to Committee on Education.

HB 677 to Committee on State Affairs.

HB 715 to Committee on Natural Resources.

HB 768 to Committee on Transportation and Homeland Security.

HB 774 to Committee on Intergovernmental Relations.

HB 807 to Committee on Intergovernmental Relations.

HB 960 to Committee on Criminal Justice.

HB 965 to Committee on Transportation and Homeland Security.
HB 1029 to Committee on Intergovernmental Relations.
HB 1093 to Committee on Health and Human Services.
HB 1095 to Committee on Business and Commerce.
HB 1096 to Committee on Higher Education.
HB 1115 to Committee on Intergovernmental Relations.
HB 1134 to Committee on Economic Development.
HB 1177 to Committee on Intergovernmental Relations.
HB 1183 to Committee on Transportation and Homeland Security.
HB 1272 to Committee on Transportation and Homeland Security.
HB 1294 to Committee on State Affairs.
HB 1310 to Committee on Business and Commerce.
HB 1366 to Committee on Intergovernmental Relations.
HB 1509 to Committee on Transportation and Homeland Security.
HB 1517 to Committee on Intergovernmental Relations.
HB 1568 to Committee on Higher Education.
HB 1570 to Committee on State Affairs.
HB 1623 to Committee on Business and Commerce.
HB 1659 to Committee on Criminal Justice.
HB 1680 to Committee on Intergovernmental Relations.
HB 1770 to Committee on Economic Development.
HB 1787 to Committee on Business and Commerce.
HB 1789 to Committee on Economic Development.
HB 1799 to Committee on Business and Commerce.
HB 1850 to Committee on International Relations and Trade.
HB 1884 to Committee on Health and Human Services.
HB 1969 to Committee on Jurisprudence.
HB 2031 to Committee on Criminal Justice.
HB 2037 to Committee on Education.
HB 2065 to Committee on State Affairs.
HB 2082 to Committee on Intergovernmental Relations.
HB 2107 to Committee on Transportation and Homeland Security.
HB 2201 to Committee on Transportation and Homeland Security.
HB 2225 to Committee on Health and Human Services.
HB 2228 to Committee on Intergovernmental Relations.
HB 2259 to Committee on Natural Resources.
HB 2303 to Committee on Health and Human Services.
HB 2307 to Committee on Intergovernmental Relations.
HB 2314 to Committee on Transportation and Homeland Security.
HB 2317 to Committee on Finance.
HB 2333 to Committee on Intergovernmental Relations.
HB 2347 to Committee on Higher Education.
HB 2385 to Committee on Criminal Justice.
HB 2389 to Committee on Criminal Justice.
HB 2401 to Committee on State Affairs.
HB 2436 to Committee on Intergovernmental Relations.

HB 2450 to Committee on Intergovernmental Relations.
HB 2465 to Committee on Criminal Justice.
HB 2480 to Committee on Education.
HB 2507 to Committee on Finance.
HB 2530 to Committee on Transportation and Homeland Security.
HB 2532 to Committee on Transportation and Homeland Security.
HB 2640 to Committee on Transportation and Homeland Security.
HB 2642 to Committee on Transportation and Homeland Security.
HB 2644 to Committee on Transportation and Homeland Security.
HB 2724 to Committee on Jurisprudence.
HB 2774 to Committee on Business and Commerce.
HB 2803 to Committee on Education.
HB 2806 to Committee on Intergovernmental Relations.
HB 2916 to Committee on Criminal Justice.
HB 2988 to Committee on Business and Commerce.
HB 3025 to Committee on Intergovernmental Relations.
HB 3041 to Committee on Education.
HB 3057 to Committee on Transportation and Homeland Security.
HB 3076 to Committee on Education.
HB 3080 to Committee on Jurisprudence.
HB 3103 to Committee on Economic Development.
HB 3114 to Committee on Business and Commerce.
HB 3308 to Committee on Higher Education.
HB 3330 to Committee on Agriculture and Rural Affairs.
HB 3333 to Committee on Economic Development.
HB 3346 to Committee on Natural Resources.
HB 3352 to Committee on Criminal Justice.
HB 3491 to Committee on Intergovernmental Relations.
HB 3515 to Committee on Jurisprudence.
HB 3593 to Committee on Transportation and Homeland Security.
HB 3625 to Committee on State Affairs.
HB 3654 to Committee on Criminal Justice.
HB 3721 to Committee on Criminal Justice.
HB 3762 to Committee on Business and Commerce.
HB 4006 to Committee on Agriculture and Rural Affairs.
HB 4031 to Committee on Natural Resources.
HB 4152 to Committee on Education.
HB 4231 to Committee on Natural Resources.
HB 4290 to Committee on State Affairs.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 831 by Uresti, In memory of Ricardo B. Calderon of Valentine.

Welcome and Congratulatory Resolutions

SR 737 by Uresti, Recognizing the Teens in the Driver Seat program for its contributions to teen driving safety.

SR 818 by West, Recognizing Barbara Jean Jones-Vickers on the occasion of her retirement from the Dallas Independent School District.

SR 819 by Ellis, Welcoming Elliot Morley of the United Kingdom to Austin.

SR 820 by Ellis, Recognizing Ed Smith on the occasion of his retirement from Macy's.

SR 821 by Hinojosa, Recognizing Hidalgo Early College High School for receiving a 2009 College Board Inspiration Award.

SR 823 by Jackson, Honoring Iris Baker for her 50 years of membership in the Senate Ladies Club.

SR 825 by Jackson, Honoring Ruth Dies for her 50 years of membership in the Senate Ladies Club.

SR 826 by Jackson, Honoring Bernice Traeger for her 36 years of membership in the Senate Ladies Club.

SR 827 by Jackson, Honoring Betty Leedom for her 28 years of membership in the Senate Ladies Club.

SR 828 by Jackson, Honoring Marjorie Henderson for her 26 years of membership in the Senate Ladies Club.

SR 829 by Jackson, Honoring Donna Lyon for her 26 years of membership in the Senate Ladies Club.

SR 830 by Jackson, Honoring Sue Sims for her 26 years of membership in the Senate Ladies Club.

SR 832 by Lucio, Commending James Hagan of Brownsville for achieving the rank of Eagle Scout.

SR 833 by Shapiro, Recognizing Don Wendell on the occasion of his retirement from the Plano Parks and Recreation Department.

SR 834 by West, Recognizing Rosa L. Mitchell on the occasion of her 90th birthday.

SR 835 by Whitmire, Commending Chad A. Holub for achieving the rank of Eagle Scout.

Official Designation Resolution

SR 816 by Davis, Recognizing May 4, 2009, as Architect Appreciation Day at the State Capitol.

RECESS

Pursuant to a previously adopted motion, the Senate at 3:12 p.m. recessed until 7:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 4, 2009

AGRICULTURE AND RURAL AFFAIRS — **HB 328, CSHB 1684, HB 2042, HB 2527, SB 1088, SB 1668, CSSB 1871, CSSB 2333**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 1466**

NATURAL RESOURCES — **CSSB 2235, CSSB 2384**

CRIMINAL JUSTICE — **CSSB 1176**

JURISPRUDENCE — **CSSB 2214**

AGRICULTURE AND RURAL AFFAIRS — **CSHB 865, CSHB 1908**

BUSINESS AND COMMERCE — **HB 651, HB 762**

NATURAL RESOURCES — **SB 2283**

HEALTH AND HUMAN SERVICES — **HB 703, HB 704, HB 1067, HB 1081, HB 1671**

FINANCE — **CSSB 679, SB 798, SB 958, SB 2442, CSSB 2407**

INTERGOVERNMENTAL RELATIONS — **CSSB 2515, SB 2532**

CRIMINAL JUSTICE — **CSSB 2075**

HIGHER EDUCATION — **CSSB 814**

INTERGOVERNMENTAL RELATIONS — **CSSB 2531**

BILLS ENGROSSED

May 1, 2009

SB 182, SB 312, SB 331, SB 341, SB 548, SB 552, SB 626, SB 671, SB 696, SB 857, SB 1098, SB 1374, SB 1538, SB 1615, SB 1648, SB 1687, SB 1772, SB 1830, SB 1909, SB 1913, SB 2007, SB 2018, SB 2051, SB 2233, SB 2242, SB 2313, SB 2349, SB 2378, SB 2419, SB 2423, SB 2444, SB 2484, SB 2505, SB 2520

RESOLUTIONS ENROLLED

May 1, 2009

SR 749, SR 806, SR 807, SR 808, SR 809, SR 810, SR 811, SR 812, SR 813, SR 814, SR 817

